

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 800 of 2015

- Ram Niwas Sahu S/o Ganpat Ram Sahu, Aged About 36 Years R/o Village Narayanpur, Post Bhuneshwarpur, P.S. And Tehsil Ramanujnagar, Revenue And Civil District Surajpur, Chhattisgarh.....Non-Applicant, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Collector, Surajpur, Revenue And Civil District Surajpur, Chhattisgarh
2. Tehsildar, Ramanujnagar, Revenue And Civil District Surajpur, Chhattisgarh
3. Ramjeet, S/o Baijnath Sahu, Aged About 40 Years Caste- Teli, R/o Village Nakna, P.S. And Tehsil Ramanujnagar, Revenue And Civil District Surajpur, Chhattisgarh.....Applicant

---- Respondents

For Petitioner	: Shri Surfaraj Khan, Advocate
For Respondents- 1 and 2/State	: Ms M Asha, Panel Lawyer
For Respondent- 3	: Shri Manoj Paranjpe and Shri Prasoon Agrawal, Advocates

Hon'ble Shri Justice Parth Prateem Sahu

Order on board

19.07.2018

1. The petitioner by this petition has challenged the proceedings drawn by respondent- 2 Tehsildar Ramanujnagar, district Surguja on the application filed by respondent- 3 seeking relief of injunction vide Annexure P/3.

2. The facts of the case as narrated by the learned counsel for the petitioner are that respondent- 3 filed an application before respondent- 2 seeking relief that the petitioner may be restrained from making construction over the land Khasra No.204/1 Rakba 0.06 hectores situated in

Ramanujganj, district Surajpur. Respondent- 2 who was not having any jurisdiction to entertain the application in the nature of seeking relief of injunction, has registered the Revenue case and therefore, the proceedings drawn by him are without jurisdiction.

3. Learned counsel for the petitioner further relies on the judgment passed by this Hon'ble Court in the matter of **Siyamber Singh and others Vs State of Chhattisgarh and others** (WPC No.2230 of 2016) in which this Court relied on the decision of Madhya Pradesh High Court in the matter of **Maya Lalchandani (Mrs) and others Vs Board of Revenue and ors.**, reported in **2009 (3) MPLJ 660** in which Hon'ble Division Bench of Madhya Pradesh High Court has considered the provisions of Section 32 of the Land Revenue Code and held as under:

“4. After going through the order passed by the learned President, Board of Revenue and taking into consideration the legal provisions, we are of the opinion that the directions issued in paragraph 7 of the order passed by the Board of Revenue cannot be allowed to stand. Section 32 of the Land Revenue Code talks of the inherent powers of the Revenue Authorities while Section 43 talks of applicability of the Code of Civil Procedure. It is to be seen from Section 32 that nothing in the Land Revenue Code shall be deemed to limit or otherwise affect the inherent power of the Revenue Court to make such orders as may be necessary to meet the ends of justice or as may be necessary to prevent the abuse of the process of Court. Section 43 simply provides that unless otherwise expressly provided in the Code, the procedure laid down in the Code of Civil Procedure shall, so far as may be, followed in all proceedings under the Code. Section 43 in no case would

authorize a Revenue Authority to grant an injunction. Section 43 simply provides that the procedure laid down in the Code of Civil Procedure so far as may be followed in all proceedings under the Code. It is also to be seen from the provision of the Code of Civil Procedure that an injunction can be granted only by civil Court and by none else. Section 32 of the M.P. Land Revenue Code only talks of the inherent powers of the Revenue Courts where they are required to make such order as may be necessary for the ends of justice or to prevent the abuse of the process of the Court. The powers under Section 32 can be exercised within the Code itself and not beyond the Code. If the Revenue Authority does not have the power to grant injunction then the Board of Revenue also could not grant injunction.”

4. Learned counsel appearing on behalf of respondent- 3 in view of the above judgment passed by this Hon'ble Court fairly submits that respondent- 2 was not having any jurisdiction to entertain an application for grant of injunction and also submits that respondent- 2 has committed illegality in registering the revenue proceedings on the said application.

5. Learned Panel lawyer for respondents 1 and 2/State submits that respondent- 2 has initiated the proceedings exercising inherent powers for securing ends of justice.

6. Considering the facts of the case and the contents of the application Annexure P/3 in which it is only prayed for restraining the petitioner from making any construction which is the prayer for granting injunction in his favour, which only can be granted under the provisions of code of Civil Procedure by competent Civil Court.

7. Considering the facts of the case and in view of the judgment relied upon by the petitioner in **Siyamber Singh** (*supra*), proceedings in the Revenue case registered by respondent- 2, bearing case No.1/A-70/2013-14, based on the application Annexure P/3 is hereby quashed.

8. It is made clear that if any other proceedings between the parties on any other application under the provisions of the Chhattisgarh Land Revenue Code are pending before respondent- 2 will be adjudicated in accordance with law.

9. The Writ Petition is allowed.

10. No order as to costs.

Sd/-
(Parth Prateem Sahu)
JUDGE